

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Southern Communications Services, Inc.)	
d/b/a Southern LINC)	CC Docket No. 96-45
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of Georgia)	
)	
To: Wireline Competition Bureau)	
Wireless Telecommunications Bureau)	

**COMMENTS OF
TDS TELECOMMUNICATIONS CORP.**

TDS Telecommunications Corp. (TDS Telecom), parent company of Blue Ridge Telephone Company (Blue Ridge Telephone), Camden Telephone & Telegraph Company, Inc. (Camden), Nelson-Ball Ground Telephone Company (Nelson), and Quincy Telephone Company (Quincy Telephone) (collectively, the TDS RLECs), submits these comments to oppose the Petition of Southern Telecommunications Services, Inc. d/b/a Southern LINC for Designation as an Eligible Telecommunications Carrier in certain rural service areas in the State of Georgia (Petition).¹ Southern LINC has not demonstrated that it meets the statutory or public interest standards to be designated as an eligible telecommunications carrier (ETC). Southern LINC has indicated that it does not plan to serve the entire Blue Ridge Telephone service area as required by the statute, but it has not asked for, or demonstrated that the public interest would be served by, redefinition of the Blue Ridge Telephone service area. Accordingly, the Petition should be

¹ Petition, *Federal-State Joint Board on Universal Service, Petition of Southern Communications Services, Inc. d/b/a Southern LINC for Designation as an Eligible Telecommunications Carrier in the State of Georgia*, CC Docket No. 96-45 (filed Sept. 14, 2004; 1st Supp. Jan. 12, 2005; 2nd Supp. Jan. 21, 2005; Public Notice Feb. 1, 2005) (Petition).

denied with respect to the Blue Ridge Telephone service area. In addition, the Petition does not demonstrate that the public interest would be served by designating Southern LINC as an ETC in the other rural areas served by the TDS RLECs.

I. THE COMMISSION SHOULD APPLY THE CRITERIA DEVELOPED IN THE PENDING RULEMAKING PROCEEDING TO THE SOUTHERN LINC PETITION

As an initial matter, TDS Telecom urges the Bureau to evaluate the Petition in accordance with the criteria for ETC designation that are developed in the pending rulemaking proceeding addressing ETC designation issues. The Commission is currently considering a Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board) recommending that the Commission adopt specific criteria for evaluating petitions for ETC designation.² Numerous commenters have supported the adoption of either permissive or mandatory ETC designation criteria.³ A group of rural telephone associations and carriers, including TDS Telecom, has urged the Commission further to adopt detailed guidelines for the application of such criteria.⁴ Under the Communications Act, the Commission is required to

² See Notice of Proposed Rulemaking, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 04-127 (rel. June 8, 2004) (Notice) (seeking comment on Recommended Decision, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of The Commission's Rules Relating to High-Cost Universal Support and The ETC Designation Process*, CC Docket No. 96-45, FCC 04J-1 (rel. Feb. 27, 2004) (Recommended Decision)).

³ See, e.g., Comments of TDS Telecom, CC Docket No. 96-45, at 4-11 (Aug. 6, 2004); Comments of the National Association of State Utility Consumer Advocates, CC Docket No. 96-45, at 34-40 (Aug. 6, 2004); Comments of the Public Utilities Commission of Oregon, CC Docket No. 96-45, at 3-5 (Aug. 6, 2004); Comments of the United States Telecommunications Association, CC Docket No. 96-45, at 8-11 (Aug. 6, 2004); Comments of the Rural Telecommunications Associations, CC Docket No. 96-45, at 35-36 (Aug. 6, 2004); Comments of the State Telecommunications Associations and Rural Telephone Companies, CC Docket No. 96-45, at 6-9 (Aug. 6, 2004); Comments of the National Exchange Carrier Association, CC Docket No. 96-45, at 18-20 (Aug. 6, 2004) (all expressing support for federal guidelines specifying additional ETC eligibility requirements).

⁴ See *Ex Parte* Letter of WTA, ITTA, Various State Telecom Associations, TDS Telecom, and Fairpoint Communications, CC Docket No. 96-45 (Jan. 28, 2005); see also *Ex Parte* Letter of OPASTCO, CC Docket No. 96-45 (Feb. 1, 2005).

issue a decision on the Recommended Decision before the end of this month.⁵ Accordingly, it is likely that new ETC designation criteria will be in place before the Bureau makes a decision on the Southern LINC Petition.

The Bureau here should apply any new criteria adopted in the ETC designation order to all pending ETC petitions, including the Southern LINC Petition. This is consistent with the approach the Bureau took when the Commission issued the *Virginia Cellular* and *Highland Cellular* orders adopting an interim standard for evaluating ETC petitions,⁶ and would ensure that the Bureau's decision on the Petition is consistent with the public interest as understood by the Commission at the time the decision is made. As it did after issuance of the *Virginia Cellular* order, the Bureau could, if necessary, give Southern LINC an opportunity to supplement its Petition with information attempting to demonstrate that Southern LINC meets any new criteria adopted by the Commission for a carrier seeking competitive ETC designation.

II. SOUTHERN LINC DOES NOT SATISFY THE STATUTORY OR PUBLIC INTEREST REQUIREMENTS FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

The Southern LINC Petition does not meet either the statutory requirements or the interim *Virginia Cellular/Highland Cellular* public interest standard for ETC designation in the Georgia service areas served by the TDS RLECs.

⁵ See 47 U.S.C. § 254(a)(2) (“[T]he Commission shall complete any proceeding to implement subsequent recommendations from any Joint Board on universal service within one year after receiving such recommendations.”).

⁶ Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 03-338 (rel. Jan. 22, 2004) (*Virginia Cellular*); Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service Highland Cellular, Inc Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 04-37 (rel. April 12, 2004) (“*Highland Cellular*”); Public Notice, *Parties are Invited to Update the Record Pertaining to Pending Petitions for Eligible Telecommunications Carrier Designations*, CC Docket No. 96-45, DA 04-999 (rel. Apr. 12, 2004) (inviting parties with then-pending petitions for ETC designation to submit additional information showing how they satisfied the standards set forth in *Virginia Cellular* and *Highland Cellular*).

A. Southern LINC Does Not Intend To Provide Service Throughout The Designated Service Areas

The basic statutory requirements for any carrier seeking ETC designation are (1) to provide the supported services throughout the designated service area using its own facilities or a combination of its own facilities and resold service; and (2) to advertise the services throughout the service area using media of general distribution.⁷ Southern LINC has not demonstrated that it meets these requirements.

Although the original Petition merely described the counties in which Southern LINC sought to provide service as an ETC, the January 12 Supplement included a map apparently intended to show the carrier service areas in which Southern LINC seeks ETC designation.⁸ A further Supplement filed on January 21 disclaimed any intention to serve certain wire centers, including the Blue Ridge and Lakewood wire centers, two of the three wire centers serving the Blue Ridge Telephone service area.⁹ Under the Communications Act, an eligible telecommunications carrier must provide service throughout the designated service area. In the case of a rural telephone company, the service area consists of the entire study area unless the Commission and the state jointly determine, taking into account the recommendations of the

⁷ 47 U.S.C. § 214(e)(1).

⁸ The map submitted with the January 12 Supplement did not entirely clarify the areas in which Southern LINC seeks ETC designation in Georgia. The map apparently was intended to show the Southern LINC licensed service territory in Georgia and the rural telephone company service areas within the Southern LINC territory in which Southern LINC seeks ETC designation. However, one TDS RLEC – Quincy Telephone – whose service area appears to fall within the Southern LINC licensed territory, and which serves a Georgia county that was not excluded from the area in which ETC designation was sought in the original Petition, does not appear on the map. It is thus not clear whether Southern LINC is interested in obtaining ETC designation to serve the Quincy Telephone service area or not. To clarify the intent of the Petition, the Bureau should require Southern LINC, like all other petitioners for ETC designation, to identify the specific rural telephone company service areas (complete or partial) in which it seeks ETC designation.

⁹ Although the January 21 Supplement used the term “rate center,” we presume that Southern LINC meant to identify wire centers it did not intend to serve. The January 21 Supplement purported to exclude the Chatsworth wire center from the Blue Ridge Telephone service area, but Chatsworth is not a Blue Ridge Telephone wire center.

Joint Board, that the service area should be redefined.¹⁰ Here, Southern LINC has stated that it intends to serve less than the entire Blue Ridge Telephone study area, but has not requested, or demonstrated that the public interest would be served by, redefinition of the Blue Ridge Telephone service area to allow Southern LINC to serve less than the entire study area. Accordingly, Southern LINC does not meet the statutory requirements for ETC designation in the Blue Ridge Telephone service area.

In addition, Southern LINC does not appear to provide service throughout all of the Georgia rural telephone company service areas in which it seeks full ETC designation. The Petition apparently seeks ETC designation throughout Southern LINC's *licensed* service territory in Georgia. However, Southern LINC's website includes a RF coverage map showing where Southern LINC in fact provides service, and the actual coverage area clearly is not as extensive as the licensed service territory.¹¹ In addition, the zip code look-up feature on the coverage website indicates that Southern LINC does not offer service in at least portions of the TDS RLEC service areas in which it apparently seeks ETC designation. For example, for the Nelson-Ball Ground service area, the website indicates that Southern LINC does not provide service to six of the nine zip codes within the area. The website also reports that the zip code for Quincy Telephone is not served by Southern LINC. Although we recognize that Commission precedent does not require a petitioner seeking ETC designation to provide service throughout a service area prior to being granted ETC designation,¹² the statute clearly requires the carrier to demonstrate that it provides some service in the designated service area and that it plans to use

¹⁰ 47 U.S.C. § 214(e)(5).

¹¹ The Southern LINC coverage map can be found at <http://www.southernlinc.com/netcoverage.asp> (last visited Feb. 15, 2005).

¹² See *Virginia Cellular* ¶ 23 (citing Declaratory Ruling, *Federal-State Joint Board on Universal Service, Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket No. 96-45, 15 FCC Rcd 15168, 15175 ¶ 17 (2000), recon. pending).

universal service funds to construct the infrastructure necessary to provide service throughout the designated service area. As discussed below, the Southern LINC Petition and Supplements contain no commitment or proposal to extend the Southern LINC network to provide service throughout the rural telephone company service areas in which Southern LINC seeks ETC designation.

Finally, it is not clear that Southern LINC will provide all the supported services even where the company offers service. For example, the Petition does not state that Southern LINC has met its Phase II E911 requirements in areas where public emergency service providers have requested E911 service. The Petition states that Southern LINC has met its Phase I requirements, that it has an obligation to meet Phase II requirements only upon request of a public safety answering point (PSAP) that has made arrangements for local delivery of wireless caller location information, and that fourteen Georgia PSAPs have requested Phase II service.¹³ However, Southern LINC does not take the final step and state that it has actually met its Phase II requirements to the PSAPs that have requested such service.¹⁴

B. The Public Interest Would Not Be Served By Designating Southern LINC As An Eligible Telecommunications Carrier In The Designated Service Areas

Under *Virginia Cellular* and *Highland Cellular*, the Bureau evaluating a petition for ETC designation must “weigh the benefits of increased competitive choice, the impact of the designation on the universal service fund, the unique advantages and disadvantages of the competitor’s service offering, any commitments made regarding quality of telephone service, and the competitive ETC’s ability to satisfy its obligation to serve the designated service areas

¹³ Petition at 8.

¹⁴ *Id.* The attached Declaration also states only that “Southern LINC *will* comply with all Phase II E-911 requirements.” Exhibit 3, Declaration ¶ 7e. There is no affirmative statement that Southern LINC currently is in compliance with these requirements.

within a reasonable time frame.”¹⁵ Applying this standard, the Petition does not demonstrate that designating Southern LINC as a competitive ETC in the TDS RLEC service areas would serve the public interest.

With respect to the benefits of Southern LINC’s service, the Petition offers only conclusory statements about the benefits of competitive choice and mobile service. The Petition notes that Southern LINC already provides service in the designated area, but does not explain how Southern LINC’s “universal service” offering would offer any new, unique benefits that are not already available in the service area.

The Petition also fails to offer detailed information about the scope of Southern LINC’s coverage of the designated service area or to provide detailed buildout plans demonstrating Southern LINC’s commitment to provide quality service throughout the designated service area. Instead, Southern LINC states that it “does not currently have specific construction plans in place for implementation after obtaining ETC designation,” and that “[t]he priority under which the construction plan is to be undertaken is subject to change depending upon requests for service and other market factors.”¹⁶ Southern LINC claims to be “committed to continue to enhance and improve its facilities in Georgia,” but does not commit to undertake such improvements and enhancements in rural, high-cost areas or areas that currently are poorly served by Southern LINC’s network. These statements simply do not evidence a genuine commitment to provide high-quality, “universal” service throughout the area in which Southern LINC seeks ETC designation.

¹⁵ *Virginia Cellular* ¶ 28; *Highland Cellular* ¶ 22.

¹⁶ Petition at 12.

Finally, the Petition again offers only a conclusory statement that granting the Petition will have “minimal” financial impact on the Universal Service Fund.¹⁷ The Petition does not address arguments raised in the pending ETC rulemaking proceeding that designating competitive ETCs in rural high-cost areas may not be the most efficient way to deploy the limited resources of the Fund.¹⁸ In addition, the Petition fails to consider the cumulative effect of the additional petitions for ETC designation that Southern LINC has pending in other states. These issues must be considered in evaluating whether the public interest would be served by designating an additional ETC in a rural service area. Here, in conjunction with the other concerns identified above, they weigh strongly against designating Southern LINC as an ETC in the areas served by the TDS RLECs.

¹⁷ *Id.* at 16.

¹⁸ *See, e.g.*, Comments of the Alaska Telephone Association, CC Docket No. 96-45, at 4 (Aug. 6, 2004) (“Perhaps the first question that should be asked by any regulatory body in the consideration of an ETC application should be whether there are any unserved areas and, if so, what is the most cost-effective method to serve them. The additional funding for infrastructure extension to an ILEC with carrier of last resort (‘COLR’) responsibility might have a comparatively miniscule effect on the universal service fund when compared with the designation of a competitive ETC for the same area.”); Comments of the Coalition of State Telecommunications Association and Rural Telephone Companies, CC Docket No. 96-45, at 15-16 (Aug. 6, 2004); Comments of CenturyTel, Inc., CC Docket No. 96-45, at 17-18 (Aug. 6, 2004).

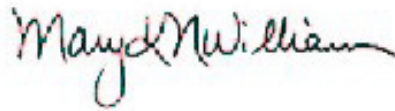
If Southern LINC is seeking ETC designation in the Quincy Telephone service area, the Petition also implicates concerns about the cumulative impact of designating multiple competitive ETCs in rural service areas because Nextel Partners has already been designated as an ETC in the Quincy Telephone service area. *See Order, Federal-State Joint Board on Universal Service, NPCR, Inc. d/b/a Nextel Partners Petitions for Designation as an Eligible Telecommunications Carrier in the States of Alabama, Florida, Georgia, Pennsylvania, Tennessee, and Virginia, Nextel Partners of Upstate New York, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in the State of New York*, CC Docket No. 96-45, DA 04-2667 (rel. Aug. 25, 2004, amended by Erratum rel. Sept. 13, 2004).

CONCLUSION

For the foregoing reasons, Southern LINC has not demonstrated that it meets the statutory or public interest requirements for ETC designation in the TDS RLEC service areas in Georgia. Accordingly, the Petition should be denied.

Respectfully submitted,

TDS TELECOMMUNICATIONS CORP.

A handwritten signature in blue ink, reading "Mary Newcomer Williams".

By: Mary Newcomer Williams
COVINGTON & BURLING
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
Tel.: 202-662-6000
Fax: 202-662-6291
Counsel to TDS Telecom

February 15, 2005